

# **OFFICE OF PERSONNEL SERVICES AND BENEFITS POLICY**

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**SUBJECT: Pandemic Flu Attendance and Leave**

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Effective: Immediately

APPROVED: \_\_\_\_\_



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## **Policy**

It is the policy of the State of Maryland to protect the health of State employees and the public and to provide continuity of services to the citizens of Maryland during times of pandemic flu.

## **Purpose**

To ensure that the State has comprehensive, equitable and scalable human resources (HR) policies that facilitate the containment of pandemic flu while supporting Executive Branch operations and protecting the health and welfare of employees.

## **Applicability**

This policy applies to all Executive Branch agencies in the State Personnel Management System (SPMS).

## **Authority**

Except as otherwise provided herein, the Secretary of Budget and Management (DBM) has the authority to implement all, or select, provisions of this policy and to grant exceptions on an agency-by-agency basis in order to ensure its use in the intended manner and to meet the unique operational requirements of any situation. At Level III, the Governor's authority may also be required to implement certain provisions.

Agencies should develop written plans and/or procedures consistent with this policy to address employee communication and unique staffing and business needs.

## **Related Authorities**

Executive Order 01.01.1981.10 Employee Release Under Emergency Conditions  
Executive Order 01.01.1991.02 State of Maryland Emergency Management Policy  
Executive Order 01.01.2006.08 Maryland State Pandemic Influenza Coordinating Committee  
Maryland Emergency Operations Plan (March, 2002)

Procedure for Release of State Employees Under Emergency Conditions (October 8, 1999)

COMAR 17.04.01.03 Powers of Secretary

COMAR 17.04.01.04 Management Rights

Public Safety Article, Annotated Code of Maryland, §14-3A-01 et seq. – Catastrophic Health Emergency

State Government Article, Annotated Code of Maryland, § 3-304 – Emergencies

## **Definitions**

Advanced sick leave

Sick leave with pay that shall be repaid. See COMAR 17.04.11.05I and Advanced Sick Leave Policy.

Accrued leave or compensatory (“comp”) time

Sick, annual or personal leave or compensatory time that the employee already has earned at the time of the employee’s absence.

Emergency essential/mission-critical employee

An employee whose duties are of such a nature as to require the employee to report for work or remain at the worksite to continue agency operations during an emergency situation. The appointing authority may excuse emergency essential/mission-critical employees from duty, or require their presence, as circumstances and conditions warrant, to maintain minimum staffing requirements for the affected facility/facilities. Such employees generally will be notified of their status no later than December 1, but the Employer may declare additional employees as emergency essential/mission-critical when necessary, to avoid or mitigate serious damage to public health, safety, or welfare.

Health care provider

A medical doctor authorized to practice medicine or surgery by the state in which the doctor practices, or other person listed in State Personnel and Pensions Article, Annotated Code of Maryland, § 9-504(b), if authorized to practice in a state and performing within the scope of that authority.

Immediate family member

The employee’s spouse; the employee’s children (including foster and stepchildren); parents, stepparents, or foster parents of the employee or spouse, or others who took the place of parents; legal guardians of the employee or spouse; brothers and sisters of the employee or spouse; grandparents and grandchildren of the employee or spouse; and other relatives living as members of the employee’s household.

### Flu-like illness

A condition under which a person displays some or all of the following symptoms typically associated with the flu: fever, chills, cough, sore throat, runny nose, body aches, headache, tiredness, diarrhea, or vomiting. Fever is usually described as temperature of 100° F (37.8° C) or greater. Symptoms of flu-like illness occurring during a period of a pandemic flu outbreak will be presumed to be pandemic flu.

## **Procedures**

There are many variables associated with a potential outbreak of pandemic flu and the possible effects on the State and its employees. These include how widespread the pandemic flu is, the severity of its symptoms and effects, how many people are affected by it, and local variations in the severity. This policy therefore identifies three levels of response to a pandemic flu outbreak, each of which can be applied to any area of the State (i.e., a county, or an individual building) or to the State as a whole, depending on the level and extent of the effects in the particular area.

The Secretary of Budget and Management, in consultation with the Secretary of Health and Mental Hygiene, shall determine the appropriate level of response for a given area.

### **1. Level I – Normal Operations**

- 1.1 This level is marked by a low to moderate number of pandemic flu cases, the severity of which is equivalent to the normal seasonal flu. During this stage, the number of pandemic flu cases may increase over time. Although all State buildings will be open and conducting business as usual, as the outbreak progresses, absenteeism in agencies may become noticeable and begin to concern the agency as a whole, or affect specific operations.
- 1.2 The HR objectives at this level are to: facilitate State operations; ensure that employees are appropriately using sick leave; and, to ensure that teleworker designations and deliverables are strictly monitored by agency supervisors.
- 1.3 During this stage, agencies should identify emergency essential/mission-critical functions, and provide educational and informational material on employee health, including proper hygiene practices to be used in the workplace. Employees should take care of their health by eating right, getting plenty of rest, and getting flu vaccinations.

#### **1.4 Employee Attendance**

- 1.4.1 Employees are expected to report to work as usual unless ill, on approved leave, or as otherwise directed by the Governor, their agency, or other authorized State official.

- 1.4.2 Appointing authorities may declare additional employees as emergency essential/mission-critical when necessary, to avoid or mitigate serious damage to public health, safety, or welfare.
- 1.4.3 Failure to report to work or to perform assigned duties as required may result in disciplinary action, up to and including termination from employment.
- 1.4.4 An appointing authority may alter an employee's work schedule, work location, or duties according to current law and policy in order to meet the needs of the agency, to provide service to the citizens of Maryland, or to promote social distancing to prevent or slow the spread of the pandemic flu.
- 1.4.5 Eligible employees may be allowed to telework pursuant to the current Telework Policy (adopted July 2009).
- 1.4.6 An employee who reports to work while exhibiting symptoms of a flu-like illness should be encouraged to return home, utilizing the employee's own leave. The appointing authority may consider administrative leave, when necessary and appropriate, pursuant to COMAR 17.04.11.17.

## 1.5 Employee Absence

- 1.5.1 An employee who is absent due to the employee's own illness, or to care for a sick member of the employee's immediate family, may use accrued sick, annual, or personal leave, or accrued comp time.
- 1.5.2 An employee who stays home because the employee's child's school is closed may use accrued annual or personal leave or accrued comp time.
- 1.5.3 An employee who must be absent for one of the foregoing reasons and who does not have accrued leave or has run out of accrued leave during the period of absence, will be placed on leave without pay for the part of the absence uncovered by paid leave.
- 1.5.4 Employees are required to provide medical certification upon their return to work for any absence of five (5) or more consecutive days of sick leave.

## 2. Level II – Flexible Operations

- 2.1 This level is marked by a moderate to high number of pandemic flu cases, and/or increased severity of the pandemic flu, but with low mortality rates. The number of flu cases will continue to increase. Although, in general, State buildings will be open and conducting business as usual, certain buildings or agencies, or certain

areas of the State, may be closed and already functioning at Level III. Some schools may have closed, with the number increasing later in this stage, forcing a parent to stay home. Absenteeism in agencies will be noticeable, and perhaps significant, and will cause disruption in agency operations as a whole, or in specific locations.

- 2.2 The HR objectives at this level are to: minimize the spread of the pandemic flu while maintaining State operations; encourage sick employees to remain at home in order to avoid the spread of the pandemic flu, which includes the implementation of an Advanced Sick Leave Policy for employees without leave; ease return-to-work documentation requirements in order to avoid overburdening health care workers; and, facilitate social distancing by relaxing telework requirements and delegating telework decisions to agency heads.
- 2.3 During this stage, agencies should begin to utilize a central method for communicating relevant and accurate information to employees regarding any changes in policy or practice, and should ensure that employees are aware of this resource as the means of obtaining up-to-date information. Agencies should implement policies and practices that distance employees from each other, customers, and the general public, including the use of telephones, teleconferences, e-mail, and websites. As this stage progresses, agencies may implement staggered work shifts, or policies or practices allowing employees to telework with reduced documentary requirements.

#### 2.4 Employee Attendance

- 2.4.1 Employees are expected to report to work as usual unless ill, on approved leave, or as otherwise directed by the Governor, their agency, or other authorized State official.
- 2.4.2 Appointing authorities may declare additional employees as emergency essential/mission-critical when necessary, to avoid or mitigate serious damage to public health, safety, or welfare.
- 2.4.3 Failure to report to work or to perform assigned duties as required may result in disciplinary action, up to and including termination from employment.
- 2.4.4 An appointing authority may alter an employee's work schedule, work location, or duties according to current law and policy in order to meet the needs of the agency, to provide service to the citizens of Maryland, or to promote social distancing to prevent or slow the spread of the pandemic flu.

- 2.4.5 Qualified employees may be allowed to telework. At the discretion of the head of the principal unit, the enhanced work-tracking requirements adopted in July 2009 may be temporarily suspended and replaced with the more general telework work-tracking documentation previously in use, or another method of work-tracking that is satisfactory to the head of the principal unit.
- 2.4.6 An employee who reports to work exhibiting symptoms of a flu-like illness should be encouraged to return home on the employee's own leave. The appointing authority may consider administrative leave, when necessary and appropriate, pursuant to COMAR 17.04.11.17.

## 2.5 Employee Absence

- 2.5.1 An employee who is absent due to the employee's own illness, or to care for a sick member of the employee's immediate family, may use accrued sick, annual, or personal leave, or accrued comp time.
- 2.5.2 An employee who stays home because the employee's child's school is closed may use accrued annual or personal leave or accrued comp time.
- 2.5.3 An employee who must be absent from work due to the employee's own illness or to care for a sick member of the employee's immediate family and who does not have accrued leave or has run out of accrued leave during the period of absence, may be placed on leave without pay for the part of the absence uncovered by paid leave. In lieu of leave without pay, an employee who has exhausted all other forms of paid leave may request Advanced Sick Leave.
- 2.5.4 Employees may return to work after an absence of five (5) to seven (7) days from the onset of a flu-like illness, and after remaining symptom- and fever-free (temperature of less than 100° F without the use of fever-reducing medications) for twenty-four (24) hours, without providing medical documentation.

## 3. Level III – Emergency Operations

- 3.1 This level is marked by a high number of pandemic flu cases, and/or a greater severity of the resulting illness, with the likelihood of increasing mortality rates. Schools will be closed, either throughout the State or in affected areas. Pursuant to the Governor's authority, State buildings will be closed to the public, either Statewide or in designated areas, such as by county or facility.
- 3.2 The HR objectives at this level are to: contain the pandemic flu by ceasing all non-emergency essential/mission-critical functions; require sick employees to remain at home in order to avoid the spread of the pandemic flu by instituting on-

site screenings for employees entering facilities and utilizing the Advanced Sick Leave Policy for employees without leave; and, facilitate social distancing by relaxing telework requirements and delegating telework decisions for mission-critical functions to agency heads.

- 3.3 During this stage, only mission-critical functions will continue. If authorized by the Governor or other appropriate entity, in agencies designated at Level III, employees may be screened at the workplace entrance, and those who meet the criteria for symptoms of flu-like illness will be sent home. In such situations, the employee should be encouraged to utilize the employee's own leave. The appointing authority may consider administrative leave, when necessary and appropriate, pursuant to COMAR 17.04.11.17.

### 3.4 Employee Attendance

- 3.4.1 All emergency essential/mission critical employees unless on sick leave or other form of approved leave are required to report for work. Applicable premium pay rates will be in effect for emergency essential/mission-critical employees.
- 3.4.2 Appointing authorities may declare additional employees as emergency essential/mission-critical when necessary, to avoid or mitigate serious damage to public health, safety, or welfare.
- 3.4.3 Failure of emergency essential/mission-critical employees to report to work, unless on sick or other form of approved leave, or to perform assigned duties as required may result in disciplinary action, up to and including termination from employment.
- 3.4.4 An appointing authority may alter an employee's work schedule, work location, or duties in order to meet the needs of the agency, to provide service to the citizens of Maryland, or to promote social distancing to prevent or slow the spread of the pandemic flu. Upon activation of the agency's Continuity of Operations Plan (COOP), an employee may be required to perform work assignments even though the assigned duties are not precisely within the scope of the employee's usual responsibilities, and may be assigned to work at any location in the State and for periods of time other than those normally designated as the employee's regular work hours.
- 3.4.5 Emergency essential/mission-critical employees with suitable jobs may be allowed or required to telework. At the discretion of the head of the principal unit, the required work-tracking documentation process adopted in July 2009 may be temporarily suspended and replaced with the more

general telework work-tracking documentation previously in use, or another method that is satisfactory to the head of the principal unit.

- 3.4.6 If authorized by the Governor or other appropriate entity, agencies designated at Level III may screen emergency essential/mission-critical employees for flu-like illness prior to their entry into the workplace. Emergency essential/mission-critical employees who meet the criteria for symptoms of a flu-like illness will be sent home. In such situations, the employee should be encouraged to utilize the employee's own leave. The appointing authority may consider administrative leave, when necessary and appropriate, pursuant to COMAR 17.04.11.17.

### 3.5 Employee Absence

- 3.5.1 All non-emergency essential/non-mission-critical employees will be placed on administrative leave and will be required to stay home during the time that their agency is at Level III.
- 3.5.2 Emergency essential/mission-critical employees who are absent due to their own illness, or to care for a sick immediate family member, may use accrued sick, annual, or personal leave, or compensatory time, leave without pay, or Advanced Sick Leave.
- 3.5.3 An emergency essential/mission-critical employee who was absent from work due to a flu-like illness may return to work after an absence of five (5) to seven (7) days from the onset of the illness, and after remaining symptom- and fever-free (temperature of less than 100° F without the use of fever-reducing medications) for twenty-four (24) hours, without providing medical documentation.